

Appl. No. : 10/796,692
Filed : March 9, 2004

REMARKS

In response to the Office Action mailed October 13, 2006, the Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following remarks.

Summary of the Office Action

In the October 13, 2006 Office Action, the Examiner rejected Claims 18-19 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,735,275 issued to Tsukahara (hereinafter referred "Tsukahara"). The Examiner also rejected Claims 1, 2, 4-17, 20-22, and 32 under 35 U.S.C. § 103(a) as being unpatentable over Tsukahara in view of U.S. Patent No. 5,431,429 issued to Lee (hereinafter referred "Lee").

Summary of Allowable Subject Matter

In the Office Action, the Examiner notes that Claims 23-31 and 33 are allowed. The Applicants gratefully acknowledge the allowance of these claims.

Summary of the Amendment

Upon entry of the present Amendment, the Applicants will have amended Claims 1, 2, 4, 9-11, 14-18, and 32. Further, the Applicants will have added Claims 34-36. Therefore, Claims 1-2 and 4-22, 32, and 34-36 currently remain pending in the application. Please note that in the amendments to the specification and claims, deletions are indicated by strikethrough (e.g. ~~deletion~~) and additions to the claims are underlined (e.g. addition).

Traversal of Rejection of Claims 18-19 under 35 U.S.C. § 102(b)

In the Office Action, the Examiner rejected Claims 18-19 under 35 U.S.C. § 102(b), as being anticipated by Tsukahara. The Applicants submit that Tsukahara does not disclose the features recited in these claims.

In the Office Action, the Examiner argued that based on Tsukahara, the "first vertical member is considered to comprise brackets (1) and (3), and part of front side (U) located between the brackets. The second vertical member is considered to comprise brackets (2) and (4), and

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part of downpipe (D) and portions of horizontal frame members (Sw) and (Lw) that extend between the brackets.” See Office Action, page 2.

Initially, the Applicants respectfully submit that Tsukahara does not disclose what the Examiner is arguing, and thus, it appears that the Examiner is creating disclosure where there is none. Tsukahara does not disclose that first and second vertical members are used to support a suspension arm. Much less, Tsukahara does not suggest that the horizontal members (Sw) and (Lw) can form part of a vertical member. Such an assertion seems to be a tortured construction that is directly contrary to the express disclosure of Tsukahara.

On the other hand, to expedite prosecution of this application, independent Claim 18 has been amended to recite, inter alia, an off-road vehicle comprising “first and second vertical members extending generally vertically . . . [with] each vertical member supporting an end of the suspension arm on generally opposite sides of said suspension arm end.” The Applicants submit that at least the first and second vertical members recited in Claim 18 are not disclosed in Tsukahara. This appears particularly clear considering that the Examiner must combine three separate members—a vertical member that is not connected to the brackets (D, see Figure 3 of Tsukahara) and two separate frame members that the Examiner himself called “horizontal”—in order to argue that Tsukahara “discloses” the first and second vertical members recited in Claim 18. Indeed, Tsukahara is devoid of any disclosure that first and second vertical members can be used. Thus, Applicants submit that Tsukahara does not disclose first and second vertical members, as recited in Claim 18, and therefore, Claim 18 is believed to be patentable over Tsukahara.

In view of the above amendments and arguments, the Applicants respectfully submit that the rejections made under Section 102(b) are now moot. In this regard, the Applicants submit that Claim 18, as well as Claim 19, which depends from Claim 18, is believed to be patentable over the cited references. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections of Claims 18-19 and indicate that these claims are allowed over the art of record.

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Traversal of Rejection of Claims 1, 2, 4-17, 20-22, and 32 under 35 U.S.C § 103(a)

The Applicants respectfully traverse the rejection of Claims 1, 2, 4-17, 20-22, and 32 under 35 U.S.C. § 103(a). As such, the combination of Tsukahara and Lee fails to teach all of the features of these claims.

However, to expedite prosecution of this application, independent Claim 1 has been amended to recite, *inter alia*, an off-road vehicle wherein "the retainers of at least one of the front and rear sets being spaced apart from each other in a fore-to-aft direction with a fore-to-aft spacing between retainers of the front set being different than a fore-to-aft spacing between the retainers of the rear set."

In the Office Action, the Examiner stated that Lee teaches that "the mount members of the first and second set of mount members are spaced apart at different distances." See Office Action, page 3. However, as amended, the Applicants submit that Lee does not teach that the fore-to-aft spacing between retainers of the front set is different than the fore-to-aft spacing between the retainers of the rear set, as recited in Claim 1. Indeed, although Lee may show that the fore-to-aft spacing between a retainer of the front set and a retainer of the rear set for the first suspension arm is spaced at a different distance than the fore-to-aft spacing between a retainer of the front set and a retainer of the rear set for the second suspension arm, Lee does not teach the above-noted feature of independent Claim 1. Lee is completely devoid of any teaching that the fore-to-aft spacing between retainers of the front set is different than the fore-to-aft spacing between the retainers of the rear set.

Furthermore, the Applicants also submit that Tsukahara also fails to teach that the fore-to-aft spacing between retainers of the front set is different than the fore-to-aft spacing between the retainers of the rear set. Therefore, as amended, Claim 1 recites features that are not taught by either Tsukahara or Lee. Thus, Claim 1, as well as Claims 2 and 4-17, which depend from Claim 1, are believed to be patentable over the cited references.

With regard to Claims 20-22, the Applicants have amended Claim 18, as noted above, to expedite the processing of this application. Claim 18 is now believed to be allowable because it recites features that are not disclosed or taught by Tsukahara. Therefore, because Claims 20-22 depend from an allowable base claim, Claim 18, the Applicants respectfully request that these claims also be allowed.

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With regard to Claim 32, the Applicants have amended Claim 32, to expedite the processing of this application. In particular, Claim 32 now recites, *inter alia*, that "the front retainers being spaced apart from each other in a fore to aft direction by a distance which is different that a distance by which the rear retainers are spaced apart from each other in a fore to aft direction." As similarly discussed above with respect to Claim 1, the Applicants respectfully submit that neither Tsukahara nor Lee teaches this feature. Therefore, as amended, Claim 32 recites features that are not taught by either Tsukahara or Lee. Thus, Claim 32 is also believed to be allowable over the art of record.

In view of the above amendments, the Applicants respectfully submit that the rejections made under Section 103(a) are now moot. In this regard, the Applicants submit that Claims 1, 2, 4-17, 20-22, and 32 are believed to be patentable over the cited references. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections of Claims 1, 2, 4-17, 20-22, and 32 and indicate that these claims are allowed over the art of record.

New Claims 34-36

The Applicants hereby submit new Claims 34-36 for consideration. The Applicants wish to indicate that dependent Claim 34 depends from Claim 18, and should be allowable for at least the reason that this claim depends from an allowable base claim. Further, dependent Claim 36 depends from Claim 1, and again, should be allowable for at least the reason that this claim depends from an allowable base claim. Independent Claim 35 is also presented and is believed to be allowable over the art of record. In particular, Claim 35 recites, *inter alia*, an off-road vehicle comprising a frame and upper and lower suspension arms configured with "the ends of upper suspension arm being spaced apart from each other fore to aft at a first length, the ends of lower suspension arm being spaced apart from each other fore to aft at a second length, wherein a midpoint of the first length is not aligned with a midpoint of the second length along a vertical line." The Applicants therefore respectfully request that the Examiner indicate allowance of these claims.

CONCLUSION

The Applicant respectfully submits that the above rejections and objections have been overcome and that the present application is now in condition for allowance. Therefore, the Applicant respectfully requests that the Examiner indicate that the specification is now acceptable and that Claims 1-2 and 4-22, 32, and 34-36 are also allowed. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Applicants respectfully submit that the claims are in condition for allowance in view of the above remarks. Any remarks in support of patentability of one claim, however, should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby. Applicants also have not presented arguments concerning whether the applied references can be properly combined in view of, among other things, the clearly missing elements noted above, and Applicants reserve the right to later contest whether a proper motivation and suggestion exists to combine these references.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claim and drawings in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call the Applicant's attorney in order to resolve such issue promptly.


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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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